REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment and Request for Continued Examination (RCE) is in response to the Office Action mailed June 9, 2010. Claims 1-5, 54 and 57-60 were rejected.

Claims 1-5, 54 and 57-60 were previously presented. Claims 1-5, 54 and 57-60 remain in the application. No claims have been canceled. Claim 1 has been amended. Claims 61-70 have been added without adding new matter.

Claim Rejections - 35 U.S.C. § 103

Claims 1-5, 54, 57-58 and 60 were rejected under 35 U.S.C. § 103 as being unpatentable over Logston et al. (US 2002/0032754), hereinafter referred to as "Logston", in view of Windows NT Server and further in view of "Configure IT Quick: Give the PathPing utility a GUI front end" by Greg Schultz, hereinafter referred to as "Schultz".

Logston discloses a method and apparatus for deriving and characterizing the resource capabilities of client devices in a distributed application (DA) network environment. A method and associated architecture for obtaining client device configuration and resource information incorporate a distributed profiling entity having a server portion and client portion. The client portion is used to facilitate query of the client device and transfer of device resource and configuration information back to the server portion. The device resource and configuration information is later used by the profiling entity to alter and update the distribution of entity components between the server and client device. The client device configuration can also be altered.

In contrast, independent claim 1 sets forth a networkable resource server adapted in use to serve out resources to client devices of a network where the server has delivery context aware activity software **to tailor the delivery and presentation of the resources according to a specific client device delivery context**. Running the delivery context aware activity software on a processor of the server causes a report to be produced containing data related to and **indicative of a level of delivery context aware requests** received by the server for resources.

Where claim 1 recites and is directed to tailoring delivery and presentation of resources according to the context of a specific client device, Logston is directed at distributing and

dividing portions of software applications between client devices and servers based on hardware resources available to the client. The context aware activity software of claim 1 is software which performs the tailoring of delivery and presentation of resources according to context. Examples of context include provider device capabilities, as recited in dependent claim 68; client device capabilities, as recited in dependent claim 69; configured settings on the client device, as recited in dependent claim 70. A more specific example of context is a device display screen size, as recited in dependent claim 67. The Office Action has failed to provide any support for context aware activity software in Logston and has focused rather on the report preparation portion of the claimed limitation. Applicant submits that Logston fails to disclose context aware activity software that tailors the delivery **and** presentation of resources according to a specific client device delivery context.

Claim 1 further clarifies that the resources served to the client devices include "data works, files, e-mails, or software for use by a client device independently of the server". Although Logston does describe a server for serving resources to client devices, the report produced in Logston is based on the hardware resources of the **client** and is not based on the request for resources **on a server** as claimed in claim 1. Furthermore, the Logton resources are **hardware** resources and the resources of claim 1 include at least one of **data works, files, e-mails, or software**. Therefore, the resources of claim 1 are distinctly different than the resources of Logston which are used as a basis for the report.

Logston fails to disclose a report which is "indicative of a level of delivery context aware requests". First, Logston fails to disclose context awareness in terms of resources as recited in the claim, as described above. Second, the Logston database includes configuration information relating to client devices. Such configuration information is not indicative of a level of delivery context aware requests.

The Office Action acknowledges that Logston fails to disclose that the report includes information concerning characteristics of the server, network characteristics linking the server and the client devices, and characteristics of the client devices. The Office Action also acknowledges the Logston fails to disclose that the report is sent out periodically to a master monitoring processor, to thereby notify the master monitoring processor of context delivery related information that has changed since the master monitoring processor was last updated. The Office Action has cited Windows NT Server to overcome these deficiencies.

The combination of Windows NT Server with Logston fails to overcome the acknowledged deficiencies of Logston. For example, neither Logston nor Windows NT Server describes delivery context aware delivery of resources as claimed in claim 1. Also, the reports of Logston and Windows NT Server are not based on delivery context aware requests for resources. Furthermore, the delivery context aware software of claim 1 tailors the delivery and presentation of the resources according to a specific client device delivery context and prepares a report based on delivery context aware requests for resources in order to do so. The reports of Logston and Windows NT Server are not useful in tailoring the delivery and presentation of the resources according to a specific client device delivery context.

Applicant submits that it is not obvious to combine Logston with Windows NT Server to arrive at the elements of claim 1 for a number of reasons. First, the Logston and Windows NT Server references individually and in combination fail to teach each of the claimed limitations of claim 1, such as have been described above. Second, the Windows NT Server reference describes maintenance and other operational features of a network server, while the Logston reference describes distributing portions of an application between a server and a client device based on client device capabilities. The Windows NT Server focuses on the server and Logston focuses on the client device. Whereas Windows NT Server focuses on server operation, Logston is not concerned with server operation and is instead concerned with client operation. In addition, both Windows NT Server and Logston are contrasted with the present claim which is concerned with the delivery and presentation of the resources (data works, files, e-mails, or software for use by a client device independently of the server) according to a specific client device delivery context.

Applicant further submits that Windows NT Server fails to disclose the limitations for which it was referenced. For example, the Office Action asserts that Windows NT Server discloses periodically sending a report to a master monitoring processor. However, the sections of Windows NT Server cited in support of this assertion only describe that a log is periodically updated. The logs of Windows NT Server can be generated and viewed, where reports are distinguished by time, date, and category. However, the Windows NT Server citations do not describe periodically **sending** the reports. The Windows NT Server citations do not state that the report is sent to a master monitoring processor, but that they are viewed using an event viewer. The Windows NT Server citations do not notify the master monitoring processor of context

delivery related information that has changed since the master monitoring processor was last updated. Such notification would involve comparison of reports, which is not taught by Windows NT Server. Windows NT Server just describes presenting the reports without providing comparisons to indicate changes since the last update. Furthermore, the context delivery related information of claim 1 is indicative of a level of delivery context aware requests, and such a feature is not found in the reports or the updates of Windows NT Server. Specifically, claim 1 requires that changes in the context delivery related information (including the level of delivery context aware requests) since the last update are sent to the master monitoring processor, and such a feature is not taught by Windows NT Server.

The Office Action acknowledges the failure of Logston and Windows NT Server to disclose wherein the report includes "characteristics of any intermediary devices in a network path between the client devices and the server". Schultz was brought forth to address this deficiency. However, Schultz does not overcome the other deficiencies of Logston and Windows NT Server described above. Furthermore, Applicant disputes the obviousness of the combination. While using a detailed network report to analyze problems in a network may be useful in combination with Windows NT Server, Logston is not related to problem analysis and neither is the present claim 1. The Schultz reference is thus not obvious to combine with Logston or to use to arrive at claim 1. Furthermore, the purported motivation for combination fails because the motivation does not address the technologies involved in either Logston or the present application.

For the foregoing reasons, Applicant submits that claim 1 is allowable over the combination of Logston with Windows NT Server and Schultz. Dependent claims 2-5, 54, 57-58 and 60 are allowable at least for their dependence on claim 1.

Claims 54 and 59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Logston in view of Windows NT Server, Schulz, Applicant's Admitted Prior Art, and further in view of Caccavale (US 5,732,240). Claims 54 and 59 depend from claim 1 argued above as allowable. Therefore, Applicant submits that claims 54 and 59 are in condition for allowance and respectfully requests that the rejection be withdrawn.

New claims 61-67 provide additional limitations which further distinguish the claimed subject matter over the cited references. Applicant submits that claims 61-70 are allowable and requests that the claims be allowed and passed to issue.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 1-5, 54 and 57-70 are in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve Perry at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Pursuant to 37 C.F.R. § 1.136(a), it is respectfully requested that the shortened statutory period be extended 1 month. Payment in the amount of $940 is included pursuant to 37 C.F.R. § 1.17(a) and (e) for the extension and a Request for Continued Examination (RCE) pursuant to 37 C.F.R. § 1.114. No claims were canceled, while 10 dependent claims were added. Applicant originally paid for 52 claims and the application currently includes only 20 claims. Therefore, no additional claim fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 08-2025.

DATED this 12th day of October, 2010.

Respectfully submitted,

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